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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* FUMIHIKO F.S. SATO

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Appeal 2009-008185  
Application 10/670,283  
Technology Center 2100

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Decided: February 22, 2010

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Before JAMES D. THOMAS, JOSEPH L. DIXON, and  
CAROLYN D. THOMAS, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

The Patent Examiner rejected claims 17 and 18. The Appellant appeals therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We reverse. An oral hearing was scheduled for January 7, 2010, but Appellant waived the hearing. We will decide the appeal based upon the arguments made in the Briefs and the Answer.

#### A. INVENTION

The invention at issue on appeal relates to a user interface system, in particular, a user interface including multiple independent software parts, in which, by the cooperation of the multiple independent software parts, an operation menu is displayed and the contents of the displayed operation menu are transferred in accordance with the operation of selecting the operation menu. A processing requirement designated by the operation input is understood and practiced from the operation menu thus displayed, and thereby, the system information of said user interface apparatus is displayed. (Spec. 1.)

#### B. ILLUSTRATIVE CLAIM

Claim 17, which further illustrates the invention, follows.

17 A user interface system, for displaying an operation menu and transferring contents of said operation menu based on an operation input received in response to the operation menu being selected, comprising:

- a processor configured to execute a process requirement corresponding to the operation input;

- a group of independent software objects configured to display the operation menu and to transfer the contents of said operation menu in response to the operation menu being selected, said group of independent software objects including:

- a menu flow software object configured to control the transfer of the contents of the operation menu; and

an operation software object separate from the menu flow software object and functioning in cooperation with the menu flow software object to control processing of the operation input by the processor and to create, change, and delete the input operation.

### C. REFERENCE

The Examiner relies on the following reference as evidence:

Bertram	5,818,446	Oct. 6, 1998
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### D. REJECTION

Claims 17 and 18 stand rejected under 35 U.S.C. § 102 as being anticipated by Bertram.

## II. ISSUE

Has Appellant shown error in the Examiner's showing of anticipation? Specifically, has the Examiner shown Bertram teaches displaying an operation menu and transferring contents of this displayed operation menu based on an operation input received in response to the operation menu being selected?

## III. PRINCIPLES OF LAW

### 35 U.S.C. § 102

"[A]nticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim . . . ." *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik*

*GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984)). "[A]bsence from the reference of any claimed element negates anticipation." *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986), *overruled on other grounds by Knorr-Bremse Systeme Fuer Nutzfahrzeuge GmbH v. Dana Corp.*, 383 F.3d 1337 (Fed.Cir. 2004).

Appellants have the opportunity on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

#### IV. ANALYSIS

With respect to claim 17, we note that the Examiner's rejection is based upon the Examiner identifying portions of the teachings of Bertram in the "Prior Art" portion of column 1 in combination with the teachings of the description of the preferred embodiments of the invention of Bertram (Answer 3-4). Additionally, the Examiner identifies the claimed menu flow software object and the operation software object as being taught in column 7 of Bertram. Here, Bertram teaches the change of one user interface to another user interface and control code without affecting data being displayed. The Examiner relies upon element 86 in figure 4B of Bertram to teach the control processing of the operation input by the processor to create change and delete the input operation, but we find that element 86 merely teaches "pass[ing] all content request to the new user interface" (box 86; fig. 4b) if there are two content requests in decision block 85. Clearly, the only content transferred are "content requests" rather than the claimed "transfer

the contents of said operation menu in response to the operation menu being selected.” For the claimed transfer of contents of the operation menu, the Examiner relies upon the prior art teachings from column 1 and the totality of the abstract. The Examiner, at pages 4 and 7 of the Answer, relies upon the teachings of Bertram concerning a menu bar in the prior art, which may have its contents changed or removed or arranged differently for customization which is taught in column 1 in the prior art section of Bertram and the teachings of column 7 of Bertram concerning the automatic switching between user interfaces.

Appellant argues that Bertram does not teach a transferring the contents of the operation menu (Reply Br. 1-3). Appellant argues that the teachings of Bertram cannot be seen to reasonably read on the language of claims 17 and 18 that "require displaying an operation menu and transferring contents of this displayed operation menu (not other data contents) based on an operation input received in response to the operation menu being selected (not receipt of an interface change instruction itself)." (Reply Br. 3; *see also* App. Br. 7.)

We agree with Appellant's contention that Bertram does not teach displaying an operation menu and transferring contents of this displayed operation menu based on an operation input received in response to the operation menu being selected as recited in the language of independent claim 17 and independent claim 18. We find that Bertram does not transfer the contents of the operation menu based on an operation input received in response to the operation menu being selected. Since we agree with at least one of Appellant's contentions, we need not address the remainder of Appellant's other contentions. Additionally, we note that the Examiner's

rejection is based upon a combination of the prior art teachings and the disclosed invention of Bertram, and the Examiner has not shown that Bertram necessarily teaches a customizable menu bar or tool bar in the disclosed system for an anticipation rejection.

Therefore, we find Appellant has identified that the Examiner has erred in his presentation of an initial showing of anticipation of independent claims 17, and we cannot sustain the rejection thereof.

With respect to claim 18, the claim contains the same limitations with an additional limitation of an image forming device in the preamble. The Examiner sets forth the same line of reasoning for this claim, and we find the same deficiencies as discussed above.

## V. CONCLUSION

For the aforementioned reasons, the Examiner has not shown that Bertram teaches displaying an operation menu and transferring contents of this displayed operation menu based on an operation input received in response to the operation menu being selected.

## VI. ORDER

We reverse the anticipation rejection of claims 17 and 18.

REVERSED

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Application 10/670,283

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